

Model Information Technology Contract for Purchased Services

This is one of four model contracts for the purchase of information technology goods and Services. The other three are for Hardware, Software and Personal Services. The focus of this Contract is “Purchased Services, as defined in RCW 43.105.020(5).

Hybrids: Purchasers will often be acquiring a combination of equipment, software and services. In those instances, Purchaser should start with the model contract that addresses the major purpose of the acquisition and then integrate additional provisions from the other pertinent models into Purchaser’s contract.

Contract Number *[XXX-XXX-XXX]*

for

[describe acquisition]

between the

[Purchaser]

and

[Vendor]

Effective Date: _____

[Add Effective Date]

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[describe acquisition]*
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CONTRACT NUMBER *[XXX-XXX-XXX]*

for

[describe acquisition]

PARTIES *(required)*

Parties – This section identifies the parties entering into the Contract. It states Purchaser's name and address and Vendor's legal name and address.

This Contract ("Contract") is entered into by and between the state of Washington, acting by and through *[Purchaser]*, an agency of Washington State government ("Purchaser" or "*[Purchaser]*") located at *[Purchaser address]*, and *[Vendor]*, a *[corporation/sole proprietor or other business form]* licensed to conduct business in the state of Washington ("Vendor"), located at *[Vendor address]* for the purpose of providing *[describe Services to be provided]*.

RECITALS

Recitals – This section provides the acquisition's history and demonstrates the presence of consideration, a requirement for every contract.

[Include the acquisition's history, whether the Contract resulted from an RFP, RFQ, RFQQ, sole source or other acquisition method.]

The state of Washington, acting by and through *[Purchaser]*, issued a Request for *[Proposal/Quotation/Qualifications and Quotation] [(RFX)]* dated *[date]*, (Exhibit A) for the purpose of purchasing *[describe Services to be provided]* in accordance with its authority under chapter 43.105 RCW.

[Vendor] submitted a timely Response to *[Purchaser]*'s *[RFX]* (Exhibit B).

The *[Purchaser]* evaluated all properly submitted Responses to the above-referenced *[RFX]* and has identified *[Vendor]* as the apparently successful Vendor.

The *[Purchaser]* has determined that entering into a Contract with *[Vendor]* will meet Purchaser's needs and will be in Purchaser's best interest.

[If not a competitive acquisition, discuss sole source or other acquisition method in place of the above Recitals.]

NOW THEREFORE, Purchaser awards to *[Vendor]* this Purchased Services Contract, the terms and conditions of which shall govern Vendor's furnishing to *[Purchaser]* the *[describe Services to be provided]*. This Contract is not for personal use.

IN CONSIDERATION of the mutual promises as hereinafter set forth, the parties agree as follows:

1. Definition of Terms

Definition of Terms – This section, near the beginning of the Contract, provides definitions for any potentially confusing, ambiguous, vague, or unique terms, as well as other terms that may be appropriate and useful in the Contract.

[Add or delete items so that only those definitions that are pertinent to this Contract are included.]

The following terms as used throughout this Contract shall have the meanings set forth below.

“Business Days and Hours” shall mean Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.

*[Be sure that the definition for Confidential Information here is consistent with the definition in the section titled **Protection of Purchaser’s Confidential Information**.]*

“Confidential Information” shall mean information that may be exempt from disclosure to the public or other unauthorized persons under either chapter 42.17 RCW or other state or federal statutes. Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver’s license numbers, medical data, law enforcement records, agency source code or object code, agency security data, or *[add other items as necessary or delete items not applicable]*.

“Contract” shall mean this document, all schedules and exhibits, Statements of Work, and all amendments hereto.

“*[Department/Commission/Board]*” shall mean the same as Purchaser.

“Effective Date” shall mean the first date this Contract is in full force and effect. It may be a specific date agreed to by the parties; or, if not so specified, the date of the last signature of a party to this Contract.

“Exhibit A” shall mean the *[RFX]*.

“Exhibit B” shall mean *[Vendor]*’s Response.

“Price” shall mean charges, costs, rates, and/or fees charged for the Services under this Contract and shall be paid in United States dollars.

“Product(s)” shall mean any Vendor-supplied equipment, Software, and documentation.

“Proprietary Information” shall mean information owned by Vendor to which Vendor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by copyright, patent, trademark, or trade secret laws.

“Purchased Services” or **“Services”** shall mean those Services and activities provided by Vendor to accomplish routine, continuing, and necessary functions as set forth in this Contract or a Statement of Work. Purchased Services shall include those Services specified as Purchased Services in RCW 43.105.020.

“Purchaser” shall mean the state of Washington, *[Purchaser]*, any division, section, office, unit or other entity of Purchaser or any of the officers or other officials lawfully representing Purchaser.

“Purchaser [Project or Business] Manager” shall mean the person designated by Purchaser who is assigned as the primary contact person whom Vendor’s Account Manager shall work with for the duration of this Contract and as further defined in the section titled **Purchaser [Project or Business] Manager**.

“Purchaser Contract Administrator” shall mean that person designated by Purchaser to administer this Contract on behalf of Purchaser.

“Purchaser Contracting Officer” shall mean [name of Purchaser’s officer with signature authority], or the person to whom signature authority has been delegated in writing. This term includes, except as otherwise provided in this Contract, an authorized representative of the Purchaser Contracting Officer acting within the limits of his/her authority.

“RCW” shall mean the Revised Code of Washington.

“[RFX]” shall mean the Request for [Proposal/Quotation/Qualifications and Quotation] used as a solicitation document to establish this Contract, including all its amendments and modifications, Exhibit A hereto.

“Response” shall mean Vendor’s Response to Purchaser’s [RFX] for [describe acquisition], Exhibit B hereto.

“Schedule A: Authorized Services and Price List” shall mean the attachment to this Contract that identifies the authorized Services and Prices available under this Contract.

“Schedule B: Statement of Work Template” shall mean the attachment to this Contract that provides example terms and conditions for a Statement of Work.

“Schedule C: MWBE Certification” shall mean the attached certificate(s) indicating Vendor’s and/or one or more of Vendor’s Subcontractor’s status as a minority or women’s business enterprise.

“Software” shall mean the object code version of computer programs licensed pursuant to this Contract. Software also means the source code version, where provided by Vendor. Embedded code, firmware, internal code, microcode, and any other term referring to software residing in the equipment that is necessary for the proper operation of the equipment is not included in this definition of Software. Software includes all prior, current, and future versions of the Software and all maintenance updates and error corrections.

“Specifications” shall mean the technical and other specifications set forth in the [RFX], Exhibit A, and any additional specifications set forth in Vendor’s Response, Exhibit B.

“Statement of Work” or **“SOW”** shall mean a separate statement of the work to be accomplished by Vendor under the terms and conditions of this Contract. A template SOW is attached as Schedule B. [Modify according to the process to be used by Purchaser and include appropriate additional language such as, “Each Statement of Work shall be the result of a second tier competition.”]

“Subcontractor” shall mean one not in the employment of Vendor, who is performing all or part of the business activities under this Contract under a separate contract with Vendor. The term “Subcontractor” means Subcontractor(s) of any tier.

“Vendor” shall mean [Vendor], its employees and agents. Vendor also includes any firm, provider, organization, individual, or other entity performing the business activities under this

Contract. It shall also include any Subcontractor retained by Vendor as permitted under the terms of this Contract.

“Vendor Account Manager” shall mean a representative of Vendor who is assigned as the primary contact person whom the Purchaser *[Project or Business]* Manager shall work with for the duration of this Contract and as further defined in the section titled **Vendor Account Manager**.

“Vendor Contracting Officer” shall mean *[title of Vendor officer with signature authority]*, or the person to whom signature authority has been delegated in writing. This term includes, except as otherwise provided in this Contract, an authorized representative of Vendor Contracting Officer acting within the limits of his/her authority.

“Work Product” shall mean data and products produced under this Contract including but not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, software, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law.

Contract Term

2. Term *(required)*

[If the term or any subsequent term crosses biennial or fiscal year lines, specify that any Service provided beyond the fiscal or biennial year’s end is contingent upon receipt of funding.]

2.1. Term of Contract

[If this is a single term contract, use only the following subsection. Otherwise, use an initial term and subsequent terms (subsections (a) and (b) below) as applicable.]

The term of this Contract shall be *[_____()]* years *[or other appropriate time period]*, commencing upon the Effective Date.

[-OR-]

- a) This Contract’s initial term shall be *[_____()]* years *[or other appropriate time period]*, commencing upon the Effective Date.
- b) This Contract’s term may be extended by *[_____()]* additional *[one (1)]* year *[or other appropriate time period]* term[s], provided that the extensions shall be at Purchaser’s option and shall be effected by Purchaser giving written notice of its intent to extend this Contract to Vendor not less than *[thirty (30)]* calendar days *[or other appropriate time period]* prior to the then-current Contract term’s expiration and Vendor accepting such extension prior to the then-current Contract term’s expiration. The total term of this Contract shall not exceed *[]* years *[or other appropriate time period]*. No change in terms and conditions shall be permitted during these extensions unless specifically agreed to in writing.

[-OR-replace subsection 2.1b) above with the following.]

- b) This Contract’s term shall be automatically extended for *[_____()]* additional *[one (1)]* year *[or other appropriate time period]* term[s] unless Purchaser terminates by giving written notice of its decision not to extend to Vendor not less than *[thirty (30)]* calendar days *[or other appropriate time period]* prior to the then-current Contract term’s

expiration. No change in terms and conditions shall be permitted during these extensions unless specifically agreed to in writing.

- 2.2. Term of Statement of Work (SOW). The term of any SOW executed pursuant to this Contract shall be set forth in the SOW. The term of the SOW shall not exceed the term of this Contract. The SOW may be terminated in accordance with the termination sections of this Contract or as mutually agreed between the parties.

3. Survivorship *(required)*

Survivorship – This section provides for certain contractual provisions to remain in full force and effect after the Contract’s expiration.

[Review the Contract after drafting is complete to determine whether additional sections should be referenced in this section.]

All license and purchase transactions executed and Services provided pursuant to the authority of this Contract shall be bound by all of the terms, conditions, Prices and Price discounts set forth herein, notwithstanding the expiration of the initial term of this Contract or any extension thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive. In addition, the terms of the sections titled **Overpayments to Vendor; Ownership/Rights in Data; Vendor’s Commitments, Warranties and Representations; Protection of Purchaser’s Confidential Information; Section Headings, Incorporated Documents and Order of Precedence; Publicity; Review of Vendor’s Records; Patent and Copyright Indemnification; Vendor’s Proprietary Information; Disputes; and Limitation of Liability** shall survive the termination of this Contract.

Pricing, Invoice and Payment

4. Pricing *(required)*

Pricing – This section establishes the conditions for Price increases and reductions, and notices thereof.

[If Purchaser wants to establish a maximum dollar amount that can be spent under the Contract, use the following subsection; otherwise delete it.]

- 4.1. The total amount expended under this Contract shall not exceed [_____] dollars (\$____) *[Specify maximum dollar amount]*.
- 4.2. Vendor agrees to provide the Services at the Prices set forth *[below or in Schedule A]*. No other Prices shall be charged by Vendor for implementation of Vendor’s Response.
- 4.3. Prices may not be increased during the initial term of the Contract.
- 4.4. If Vendor reduces its Prices for any of the Services during the term of this Contract, Purchaser shall have the immediate benefit of such lower Prices for new purchases. Vendor shall send notice to the Purchaser Contract Administrator with the reduced Prices within fifteen (15) Business Days *[or other appropriate time period]* of the reduction

taking effect. *[– OR –]* Vendor shall send updated Prices to the Purchaser *[quarterly/semi-annually]*.

[When including subsection 4.5, Purchaser may want to consider capping potential Price increases, such as linking them to the Consumer Price Index, or not to exceed some percentage of the current prices, etc. Price caps should be included in the RFX.]

- 4.5. At least *[one hundred twenty (120)]* calendar days *[or other appropriate time period]* before the end of the then-current term of this Contract, Vendor may propose Service rate increases by written notice to Purchaser Contract Administrator. Price adjustments will be taken into consideration by Purchaser Contract Administrator when determining whether to extend this Contract.

Price Protection – This subsection is used to guarantee that Purchaser receives Vendor’s most favored customer prices.

[Include the following subsection when federal funds are involved or in other special circumstances.]

- 4.6. Vendor agrees that all the Prices, terms, warranties, and benefits provided in this Contract are comparable to or better than the terms presently being offered by Vendor to any other governmental entity purchasing the same quantity under similar terms. If during the term of this Contract Vendor shall enter into contracts with any other governmental entity providing greater benefits or more favorable terms than those provided by this Contract, Vendor shall be obligated to provide the same to Purchaser for subsequent purchases.

[Expenses are optional and must be appropriate to the Contract or the SOW. Use the following subsection only if expenses are allowed.]

- 4.7. Purchaser shall reimburse Vendor for travel and other expenses as identified in this Contract or the SOW, or as authorized in writing, in advance by Purchaser in accordance with the then-current rules and regulations set forth in the *Washington State Administrative and Accounting Manual* (<http://www.ofm.wa.gov/policy/poltoc.htm>). Vendor shall provide a detailed itemization of expenses, including description, amounts and dates, and receipts for amounts of fifty dollars (\$50) or more when requesting reimbursement. *[If a maximum amount has been stated in subsection 4.1, add the following: “The amount reimbursed to Vendor is included in calculating the total amount spend under this Contract.”]*

5. Advance Payment Prohibited *(required)*

Advance Payments Prohibited – This section specifies that all payments must be made after the delivery of Services. Agencies cannot issue payment prior to the performance of work, per the Washington State Constitution, Article VIII, Section 5, “Credit Not to be Loaned.”

No advance payment shall be made for Services furnished by Vendor pursuant to this Contract. *[If Software maintenance and support Services are being paid for as a yearly program, ensure that the price and program are sufficiently described in the Contract and pricing schedule to ensure payment is not a violation of the advance payment prohibition. If there is equipment maintenance, but it is not being paid in arrears as set forth in the Invoice and Payment section below, insert the following: “Notwithstanding the above, maintenance payments, if any, may be made on a quarterly basis at the beginning of each quarter.” See also subsection 7.5 below for consistency.]*

6. Taxes

Taxes – This section identifies tax liability, responsibilities and exemptions for the Contract.

- 6.1. Purchaser will pay sales and use taxes, if any, imposed on the Services acquired hereunder. Vendor must pay all other taxes including, but not limited to, Washington Business and Occupation Tax, other taxes based on Vendor's income or gross receipts, or personal property taxes levied or assessed on Vendor's personal property. Purchaser, as an agency of Washington State government, is exempt from property tax.
- 6.2. Vendor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.
- 6.3. All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance, or other expenses for Vendor or Vendor's staff shall be Vendor's sole responsibility.

7. Invoice and Payment *(required)*

Invoice and Payment – This section specifies invoicing instructions. For example, Purchaser may require use of State Form A-19, Invoice Voucher, for submittal of requests for payment, or Purchaser may designate how often invoices may be submitted. Payment may also be based upon satisfactory acceptance of each deliverable, payment after the completion of each major part of the Contract or SOW, payment at the end of the Contract or SOW, etc.

[No matter what form is required for invoice submittal, ensure that the invoice contains sufficient detail and back up documentation to determine the appropriateness of the charges.]

- 7.1. Vendor will submit properly itemized invoices to *[title of person to receive invoices]* at *[provide appropriate address]*. Invoices shall provide and itemize, as applicable:
 - a) Purchaser Contract number *[XXX-XXX-XXX]*;
 - b) SOW number *[YY-YY]*;
 - c) Vendor name, address, phone number, and Federal Tax Identification Number;
 - d) Description of Services provided;
 - e) Date(s) that Services were provided, including number of hours worked; *[number of hours worked would not be applicable for a deliverable-based or fixed fee contract]*
 - f) Vendor's Price for Services;
 - g) Net invoice Price for each Service;
 - h) Applicable taxes;
 - i) Other applicable charges;
 - j) Total invoice Price; and
 - k) Payment terms including any available prompt payment discounts.

[Include the following subsection only when expenses are allowed.]

- 7.2. If expenses are invoiced, Vendor must provide a detailed itemization of those expenses that are reimburseable, including description, amounts and dates. Any single expense in the amount of fifty dollars (\$50) or more must be accompanied by a receipt in order to receive reimbursement. (see subsection 4.7 above)
- 7.3. Payments shall be due and payable within thirty (30) calendar days after provision and acceptance of Services or thirty (30) calendar days after receipt of properly prepared invoices, whichever is later.

[Include the following subsection only when Vendor indicated minority or women's business enterprise participation in its Response and Schedule C – MWBE Certification is attached.]

- 7.4. With each invoice Vendor shall provide an *Affidavit of Amounts Paid* specifying the amounts paid to each certified MWBE under the Contract, as set forth in Section 14 below.

[Include the following subsection only for maintenance and support payments.]

- 7.5. Purchaser shall pay maintenance and support charges on a monthly basis, in arrears.
[Change preceding sentence if payment is one quarter in advance, as authorized in RCW 43.88.160(5)(e). If paying for a yearly program of Software maintenance and support, ensure that the Price and program are sufficiently described in the Contract and Pricing schedule to ensure payment is not a violation of the advance payment prohibition.]
Payment of maintenance service/support of less than one (1) month's duration shall be prorated at 1/30th of the basic monthly maintenance charges for each calendar day.
- 7.6. Incorrect or incomplete invoices will be returned by Purchaser to Vendor for correction and reissue.
- 7.7. The Purchaser Contract number *[XXX-XXX-XXX]* and SOW number *[YY-YY]* must appear on all bills of lading, packages, and correspondence relating to this Contract.
- 7.8. Purchaser shall not honor drafts, nor accept goods on a sight draft basis.
- 7.9. If Purchaser fails to make timely payment, Vendor may invoice Purchaser one percent (1%) per month on the amount overdue or a minimum of one dollar (\$1). Payment will not be considered late if payment is deposited electronically in Vendor's bank account or if a check or warrant is postmarked within thirty (30) calendar days of acceptance of the Services or receipt of Vendor's properly prepared invoice, whichever is later.

[Use of the following subsection is optional. Consider using it when Vendor is to provide a final deliverable at the end of the Contract and Purchaser will be making periodic payments throughout the term of the Contract for work performed during specific periods of time.]

- 7.10. Purchaser shall withhold ten percent (10%) *[or other appropriate amount]* from each payment until acceptance by Purchaser of the *[final report/completion of project/other appropriate milestone]*.

8. Overpayments to Vendor

Vendor shall refund to Purchaser the full amount of any erroneous payment or overpayment under this Contract within thirty (30) days' written notice. If Vendor fails to make timely refund, Purchaser may charge Vendor one percent (1%) per month on the amount due, until paid in full.

Vendor's Responsibilities

Vendor's Responsibilities – Sections in this category set out Vendor's responsibilities. All work expectations, tasks, goals, deliverables, and milestones of the Services to be provided must be clearly defined. Do not take any work for granted or plan to handle some expectations by verbal agreement. If the Service, deliverable, standard, or other expectation is not included in the Contract, its performance may not be required.

If Vendor's duties and responsibilities have been satisfactorily delineated in Exhibit A (RFX) and Exhibit B (Vendor's Response), then the specific Contract section may just reference the applicable provisions. Be sure that Exhibits A and B are incorporated by reference (see section 19 below).

9. Purchased Services and Statement of Work *(required)*

Purchased Services and Statement of Work – SOWs document the specific requirements of a particular project or assignment, addressing the scope of required tasks, personnel working on the project, deliverables, timetable, maximum cost for the project, etc. When a purchased services contract encompasses only one project, those requirements may be included in the body of the contract or attached as a schedule, and only one signature block is necessary. When a purchased services contract is established to encompass multiple projects, then a signature block will be necessary for the contract and for each SOW entered into under that contract. This model contract is structured to encompass multiple projects.

Two-Tiered Competition – In a two-tiered acquisition process multiple contracts are awarded and established as the result of an RFX. Then, for each particular SOW a second level of competition is held between three or more of the contract holders, i.e., the particular SOW is bid upon by vendors who already have contracts in place. Having competitively awarded contracts in place saves time for a particular project and the second level bids ensure the most competitive prices for that project.

- 9.1. All Services shall be performed pursuant to the terms of this Contract and shall be documented in an SOW established between Purchaser and Vendor. *[A template for an SOW is attached as Schedule B.]*
- 9.2. The SOW shall at a minimum: *[add any other items applicable to the SOW]*
 - a) Reference this Contract number *[XXX-XXX-XXX]*;
 - b) Define project or task objectives;
 - c) Describe the scope of Services or work to be performed;
 - d) Identify deliverables;
 - e) Specify a timeline and period of performance;

- f) Specify compensation and payment, e.g., the hourly rate and total Vendor hours to be provided or the fixed price for a deliverable, (whichever is applicable), total cost of the project, and reimbursable Vendor expenses;
 - g) Describe Vendor's roles and responsibilities and identify specific Vendor staff;
 - h) Describe Purchaser's roles and responsibilities;
 - i) Provide signature block for both parties.
- 9.3. The terms and conditions of any SOW cannot conflict with the terms and conditions of this Contract. In the event of any conflict, the Contract shall prevail.

10. Commencement of Work *(required)*

No work shall be performed by Vendor until an SOW is executed by Vendor and Purchaser and is received by Vendor.

11. Ownership/Rights in Data *(required)*

Ownership/Rights in Data – These sections ensure that data and work product originating from the Contract shall be “works for hire” as defined by the U.S. Copyright Act of 1976 and shall be owned by Purchaser.

[Include the following subsections when Purchaser is acquiring ownership of Work Product produced under the Contract.]

- 11.1. Purchaser and Vendor agree that all data and work products (collectively called “Work Product”) produced pursuant to this Contract shall be considered work made for hire under the U.S. Copyright Act, 17 U.S.C. §101 *et seq*, and shall be owned by Purchaser. Vendor is hereby commissioned to create the Work Product. Work Product includes, but is not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, Software, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product.
- 11.2. If for any reason the Work Product would not be considered a work made for hire under applicable law, Vendor assigns and transfers to Purchaser the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.
- 11.3. Vendor shall execute all documents and perform such other proper acts as Purchaser may deem necessary to secure for Purchaser the rights pursuant to this section.
- 11.4. Vendor shall not use or in any manner disseminate any Work Product to any third party, or represent in any way Vendor ownership in any Work Product, without the prior written permission of Purchaser. Vendor shall take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors shall not copy or disclose, transmit or perform any Work Product or any portion thereof, in any form, to any third party.

11.5. Material that is delivered under this Contract, but that does not originate therefrom (“Preexisting Material”), shall be transferred to Purchaser with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, display, and dispose of such Preexisting Material, and to authorize others to do so except that such license shall be limited to the extent to which Vendor has a right to grant such a license. Vendor shall exert all reasonable effort to advise Purchaser at the time of delivery of Preexisting Material furnished under this Contract, of all known or potential infringements of publicity, privacy or of intellectual property contained therein and of any portion of such document which was not produced in the performance of this Contract. Vendor agrees to obtain, at its own expense, express written consent of the copyright holder for the inclusion of Preexisting Material. Purchaser shall receive prompt written notice of each notice or claim of copyright infringement or infringement of other intellectual property right worldwide received by Vendor with respect to any Preexisting Material delivered under this Contract. Purchaser shall have the right to modify or remove any restrictive markings placed upon the Preexisting Material by Vendor.

12. Site Security

[This section should be used if Vendor will be performing any Services on Purchaser’s site.]

While on Purchaser’s premises, Vendor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, or other security regulations.

13. Vendor Commitments, Warranties and Representations (required)

Vendor Commitments, Warranties and Representations – This section ensures that Vendor’s written commitments that are within the scope of this Contract are binding upon Vendor.

*[If there are specific Vendor documents to be incorporated, list them in the section titled **Section Headings, Incorporated Documents and Order of Precedence.**]*

Any written commitment by Vendor within the scope of this Contract shall be binding upon Vendor. Failure of Vendor to fulfill such a commitment may constitute breach and shall render Vendor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Vendor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Vendor in its Response or contained in any Vendor or manufacturer publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, and any other communication medium accompanying or referred to in its Response or used to effect the sale to Purchaser.

14. Minority and Women’s Business Enterprise (MWBE) Participation

[Include this section only when Vendor indicated minority or women’s business enterprise participation in its Response and Schedule C – MWBE Certification is attached. If this section is not used, delete subsection 7.4 above and Schedule C.]

With each invoice for payment and within thirty (30) days of Purchaser Contract Administrator’s request, Vendor shall provide Purchaser an *Affidavit of Amounts Paid*. The *Affidavit of Amounts Paid* shall either state that Vendor still maintains its MWBE certification, or state that its Subcontractor(s) still maintain(s) its/their MWBE certification(s) and specify the amounts paid to each certified

MWBE Subcontractor under this Contract. Vendor shall maintain records supporting the *Affidavit of Amounts Paid* in accordance with this Contract's **Review of Vendor's Records** section.

15. Protection of Purchaser's Confidential Information *(required)*

Safeguarding of Information – This section prohibits Vendor's use or disclosure of any information concerning Purchaser for any purpose not directly connected with performance of the Contract.

[If Purchaser has a unique category of Confidential Information—e.g., criminal records, health histories—include those in the list below.]

- 15.1. Vendor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.17 RCW or other state or federal statutes ("Confidential Information"). Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, agency source code or object code, agency security data, or *[add other items as necessary or delete items not applicable]*, or information identifiable to an individual that relates to any of these types of information. Vendor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without Purchaser's express written consent or as provided by law. Vendor agrees to release such information or material only to employees or Subcontractors who have signed a nondisclosure agreement, the terms of which have been previously approved by Purchaser. Vendor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.
- 15.2. Immediately upon expiration or termination of this Contract, Vendor shall, at Purchaser's option: (i) certify to Purchaser that Vendor has destroyed all Confidential Information; or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other steps Purchaser requires of Vendor to protect Purchaser's Confidential Information.

[Executive Order 00-03 requires agencies to establish reasonable procedures to review, monitor, audit, or investigate the use of personal information (included in the definition of Confidential Information) by vendors and subcontractors and provide for these procedures in contracts. The following subsection is one method. If not reasonable for this Contract, insert an alternative method for compliance.]

- 15.3. Vendor shall maintain a log documenting the following: the Confidential Information received in the performance of this Contract; the purpose(s) for which the Confidential Information was received; who received, maintained and used the Confidential Information; and the final disposition of the Confidential Information. Vendor's records shall be subject to inspection, review or audit in accordance with **Review of Vendor's Records**.
- 15.4. Purchaser reserves the right to monitor, audit, or investigate the use of Confidential Information collected, used, or acquired by Vendor through this Contract. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

- 15.5. Violation of this section by Vendor or its Subcontractors may result in termination of this Contract and demand for return of all Confidential Information, monetary damages, or penalties.

Contract Administration

16. Legal Notices

- 16.1. Any notice or demand or other communication required or permitted to be given under this Contract or applicable law shall be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid *[certified mail, return receipt requested, via facsimile or by electronic mail]*, to the parties at the addresses *[and fax number, e-mail addresses]* provided in this section. For purposes of complying with any provision in this Contract or applicable law that requires a “writing,” such communication, when digitally signed with a Washington State Licensed Certificate, shall be considered to be “in writing” or “written” to an extent no less than if it were in paper form.

To Vendor at:

[Vendor]

Attn:

[Vendor address]

Phone:

Fax:

E-mail:

To Purchaser at:

State of Washington

[Purchaser]

Attn: *[Purchaser Contract Administrator]*

[Purchaser address]

Phone:

Fax:

E-mail:

- 16.2. Notices shall be effective upon receipt or four (4) Business Days after mailing, whichever is earlier. The notice address as provided herein may be changed by written notice given as provided above.
- 16.3. In the event that a subpoena or other legal process commenced by a third party in any way concerning the Services provided pursuant to this Contract is served upon Vendor or Purchaser, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Vendor and Purchaser further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

17. Purchaser *[Project or Business]* Manager

Purchaser shall appoint *[name]* who will be the Purchaser *[Project or Business]* Manager for this Contract and will provide oversight of the activities conducted hereunder. Purchaser *[Project or Business]* Manager will be the principal contact for Vendor concerning business activities under this Contract. Purchaser shall notify Vendor, in writing, when there is a new Purchaser *[Project or Business]* Manager assigned to this Contract.

18. Vendor Account Manager

Vendor shall appoint an Account Manager for Purchaser's account under this Contract who will provide oversight of Vendor activities conducted hereunder. Vendor's Account Manager will be the principal point of contact for Purchaser concerning Vendor's performance under this Contract. Vendor shall notify Purchaser Contract Administrator and Purchaser *[Project or Business]* Manager, in writing, when there is a new Vendor Account Manager assigned to this Contract. The Vendor Account Manager information is:

Vendor Account Manager:

Address:

Phone:

Fax:

E-mail:

19. Section Headings, Incorporated Documents and Order of Precedence *(required)*

Section Headings, Incorporated Documents and Order of Precedence

Incorporated Documents – This section lists all documents that are part of the Contract and therefore binding on Vendor and Purchaser. Any documents not listed may not be enforceable against the parties. When information to be incorporated is expressed through a transitory or dynamic medium (e.g., videotape or information from a web site), Purchaser needs to ensure that a copy of the medium as of the Effective Date of the Contract is retained (e.g., videotape of materials, printed copy of web pages, etc.).

Order of Precedence – This section provides the priority of the Contract documents in the event of inconsistency among those documents. The standard order of precedence provides that federal and state law prevail; then the Contract; then, depending on the circumstances, documents related to the acquisition, such as the RFX, the Vendor's Response, etc.

- 19.1. The headings used herein are inserted for convenience only and shall not control or affect the meaning or construction of any of the sections.
- 19.2. Each of the documents listed below is, by this reference, incorporated into this Contract as though fully set forth herein.
 - a) Schedules A, and B *[if applicable]*; *[include other Schedules, if appropriate]*
 - b) *[Purchaser]* *[RFX]* dated *[date]*;
 - c) Vendor's Response to *[Purchaser]* *[RFX]* dated *[date]*;
 - d) Any SOW entered into pursuant to this Contract;
 - e) The terms and conditions contained on Purchaser's purchase documents, if used; and
 - f) All Vendor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Vendor made available to Purchaser and used to effect the sale of Services to Purchaser.
- 19.3. In the event of any inconsistency in this Contract, the inconsistency shall be resolved in the following order of precedence:
 - a) Applicable federal and state statutes, laws, and regulations;

- b) Sections of this Contract;
- c) Schedule A; *[include other Schedules, if appropriate]*
- d) *[Purchaser] [RFX]* dated *[date]*;
- e) Any SOW entered into pursuant to this Contract;
- f) Vendor's Response to *[Purchaser] [RFX]* dated *[date]*;
- g) The terms and conditions contained on Purchaser's order documents, if used; and
- h) All Vendor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Vendor made available to Purchaser and used to effect the sale of Services to Purchaser.

20. Entire Agreement *(required)*

Entire Agreement – This section establishes that the Contract constitutes the entire agreement between Purchaser and Vendor with respect to the subject matter of the Contract and supersedes all previous discussions, bid processes, and agreements, except as provided in the section titled Vendor Commitments, Warranties, and Representations. Important performance specifications, communications regarding goods and Services to be provided, Vendor assurances, etc., that are not already written in the Contract or attached as a schedule should be included in the list of incorporated documents in the section titled Section Headings, Incorporated Documents and Order of Precedence.

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and except as provided in the section titled **Vendor Commitments, Warranties and Representations**, understandings, agreements, representations, or warranties not contained in this Contract or a written amendment hereto shall not be binding on either party. Except as provided herein, no alteration of any of the terms, conditions, delivery, Price, quality, or Specifications of this Contract will be effective without the written consent of both parties.

21. Authority for Modifications and Amendments

No modification, amendment, alteration, addition, or waiver of any section or condition of this Contract or any SOW under this Contract shall be effective or binding unless it is in writing and signed by Purchaser and Vendor Contracting Officers. Only Purchaser Contracting Officer shall have the express, implied, or apparent authority to alter, amend, modify, add, or waive any section or condition of this Contract or SOW on behalf of Purchaser.

22. Independent Status of Vendor *(required)*

Independent Status of Vendor – This section makes clear that Vendor is an independent contractor and neither Vendor nor Vendor's employees are Purchaser's employees. Because Vendor is an independent contractor, Purchaser is not required to pay employee taxes such as worker's compensation, FICA, and unemployment compensation.

In the performance of this Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint venturers, or associates of one another. The parties intend that an independent contractor relationship will be created by this

Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Vendor shall not make any claim of right, privilege or benefit which would accrue to an employee under chapter 41.06 RCW or Title 51 RCW.

23. Governing Law *(required)*

Governing Law – Washington State law shall govern the Contract. Since commercial law varies from state to state, it is important to include the governing law, particularly when dealing with out-of-state vendors.

Venue – The venue is the locality where a trial occurs. Any lawsuit involving the Contract would be filed in the county stated in this clause. For agencies in the Olympia area, for example, this is Thurston County.

This Contract shall be governed in all respects by the law and statutes of the state of Washington, without reference to conflict of law principles. However, if the Uniform Computer Information Transactions Act (UCITA) or any substantially similar law is enacted as part of the law of the state of Washington, said statute will not govern any aspect of this Contract or any license granted hereunder, and instead the law as it existed prior to such enactment will govern. The jurisdiction for any action hereunder shall be exclusively in the Superior Court for the state of Washington. The venue of any action hereunder shall be in the Superior Court for *[Thurston, or other appropriate county]* County, Washington.

24. Subcontractors

Subcontractors – This section defines conditions under which Vendor can subcontract work. Generally, Vendor's Response will identify the Subcontractors. When the service of a Subcontractor is required after award, and the Subcontractor was not identified in the Response, Vendor must request advance approval in writing from Purchaser for use of the selected Subcontractor.

Vendor may, with prior written permission from Purchaser Contracting Officer, which consent shall not be unreasonably withheld, enter into subcontracts with third parties for its performance of any part of Vendor's duties and obligations. In no event shall the existence of a subcontract operate to release or reduce the liability of Vendor to Purchaser for any breach in the performance of Vendor's duties. For purposes of this Contract, Vendor agrees that all Subcontractors shall be held to be agents of Vendor. Vendor shall be liable for any loss or damage to Purchaser, including but not limited to personal injury, physical loss, harassment of Purchaser employee, or violations of the **Patent and Copyright Indemnification, Protection of Purchaser's Confidential Information, and Ownership/Rights in Data** sections of this Contract occasioned by the acts or omissions of Vendor's Subcontractors, their agents or employees. The **Patent and Copyright Indemnification, Protection of Purchaser's Confidential Information, Ownership/Rights in Data, Publicity and Review of Vendor's Records** sections of this Contract shall apply to all Subcontractors.

25. Assignment

Assignment – Assignment can occur for several reasons—for example, when one company buys another and the new company takes over responsibility for performing contractual duties. This section describes the conditions for either Purchaser or Vendor to assign this Contract or Statements of Work. Vendor may not assign or transfer its rights, duties, or obligations without written notification to Purchaser and receipt of Purchaser’s written consent. Purchaser may assign it to another entity within Washington.

[If Vendor performance or financial condition is a problem, it may be prudent to allow Vendor assignment “at Purchaser’s sole option” rather than stating that Purchaser’s consent “shall not be unreasonably withheld” in the following subsection.]

- 25.1. With the prior written consent of Purchaser Contracting Officer, which consent shall [*“not be unreasonably withheld” OR “be at Purchaser’s sole option”*], Vendor may assign this Contract including the proceeds hereof, provided that such assignment shall not operate to relieve Vendor of any of its duties and obligations hereunder, nor shall such assignment affect any remedies available to Purchaser that may arise from any breach of the sections of this Contract, Statements of Work, or warranties made herein including but not limited to, rights of setoff.
- 25.2. Purchaser may assign this Contract or Statements of Work to any public agency, commission, board, or the like, within the political boundaries of the state of Washington, provided that such assignment shall not operate to relieve Purchaser of any of its duties and obligations hereunder.

26. Publicity *(required)*

Publicity – This section establishes that Vendor will not use any advertising, sales promotion, or other publicity materials in which Purchaser’s name is specifically stated, implied, or can be inferred without Purchaser’s consent.

- 26.1. The award of this Contract to Vendor is not in any way an endorsement of Vendor or Vendor’s Services by Purchaser and shall not be so construed by Vendor in any advertising or other publicity materials.
- 26.2. Vendor agrees to submit to Purchaser, all advertising, sales promotion, and other publicity materials relating to this Contract and Services furnished by Vendor wherein Purchaser’s name is mentioned, language is used, or Internet links are provided from which the connection of Purchaser’s name therewith may, in Purchaser’s judgment, be inferred or implied. Vendor further agrees not to publish or use such advertising, sales promotion materials, publicity or the like through print, voice, the World Wide Web, and other communication media in existence or hereinafter developed without the express written consent of Purchaser *prior* to such use.

[Use of the following subsection is optional.]

- 26.3. Either Party may use the other Party’s name and logo (except for the State seal) in advertising, sales promotion, and other publicity materials relating to this Contract, without royalty, provided that this Contract and the relationship between the parties is not misrepresented.

27. Review of Vendor's Records *(required)*

Records, Documents and Reports – This section requires Vendor to maintain books, records and documents to reflect Vendor's compliance with Contract requirements and all direct and indirect costs expended in the performance of the Contract for potential audit.

- 27.1. Vendor and its Subcontractors shall maintain books, records, documents and other evidence relating to this Contract, including but not limited to Minority and Women's Business Enterprise participation, protection and use of Purchaser's Confidential Information, and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature invoiced in the performance of this Contract. Vendor shall retain all such records for six (6) years after the expiration or termination of this Contract. Records involving matters in litigation related to this Contract shall be kept for either one (1) year following the termination of litigation, including all appeals, or six (6) years from the date of expiration or termination of this Contract, whichever is later.
- 27.2. All such records shall be subject at reasonable times and upon prior notice to examination, inspection, copying, or audit by personnel so authorized by the Purchaser's Contract Administrator and/or the Office of the State Auditor and federal officials so authorized by law, rule, regulation or contract, when applicable, at no additional cost to the State. During this Contract's term, Vendor shall provide access to these items within *[Thurston, or other appropriate county]* County. Vendor shall be responsible for any audit exceptions or disallowed costs incurred by Vendor or any of its Subcontractors.
- 27.3. Vendor shall incorporate in its subcontracts this section's records retention and review requirements.
- 27.4. It is agreed that books, records, documents, and other evidence of accounting procedures and practices related to Vendor's cost structure, including overhead, general and administrative expenses, and profit factors shall be excluded from Purchaser's review unless the cost or any other material issue under this Contract is calculated or derived from these factors.

28. Right of Inspection

Right of Inspection – This section provides Purchaser the ability to inspect Vendor's facilities. This section is used when Vendor is performing its Contractual responsibilities at Vendor's facilities and Purchaser wants to have the right to monitor and evaluate Vendor's Contract performance and quality assurances.

Vendor shall provide right of access to its facilities to Purchaser, or any of Purchaser's officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

General Provisions

29. Patent and Copyright Indemnification *(required)*

Patent and Copyright Indemnification – This section establishes each party's responsibility in case of a patent, copyright, or other intellectual property right infringement.

- 29.1. Vendor, at its expense, shall defend, indemnify, and save Purchaser harmless from and against any claims against Purchaser that any Product or Work Product supplied hereunder, or Purchaser's use of the Product or Work Product within the terms of this Contract, infringes any patent, copyright, utility model, industrial design, mask work, trade secret, trademark, or other similar proprietary right of a third party worldwide. Vendor shall pay all costs of such defense and settlement and any penalties, costs, damages and attorneys' fees awarded by a court or incurred by Purchaser provided that Purchaser:
- a) Promptly notifies Vendor in writing of the claim, but Purchaser's failure to provide timely notice shall only relieve Vendor from its indemnification obligations if and to the extent such late notice prejudiced the defense or resulted in increased expense or loss to Vendor; and
 - b) Cooperates with and agrees to use its best efforts to encourage the Office of the Attorney General of Washington to grant Vendor sole control of the defense and all related settlement negotiations.
- 29.2. If such claim has occurred, or in Vendor's opinion is likely to occur, Purchaser agrees to permit Vendor, at its option and expense, either to procure for Purchaser the right to continue using the Product or Work Product or to replace or modify the same so that they become noninfringing and functionally equivalent. If use of the Product or Work Product is enjoined by a court and Vendor determines that none of these alternatives is reasonably available, Vendor, at its risk and expense, will take back the Product or Work Product and provide Purchaser a refund. In the case of Work Product, Vendor shall refund to Purchaser the entire amount Purchaser paid to Vendor for Vendor's provision of the Work Product. In the case of Product, Vendor shall refund to Purchaser its depreciated value. No termination charges will be payable on such returned Product, and Purchaser will pay only those charges that were payable prior to the date of such return. Depreciated value shall be calculated on the basis of a useful life of *[four (4)]* years commencing on the date of purchase and shall be an equal amount per year over said useful life. *[To ensure the accurate useful life, consult the Washington State Administrative and Accounting Manual, Chapter 30 (Fixed Asset Policies) for Fixed Asset Commodity Class Code List and Useful Life Schedule (<http://www.ofm.wa.gov/policy/30.50.htm>).]* The depreciation for fractional parts of a year shall be prorated on the basis of three hundred sixty-five (365) days per year. In the event the Product has been installed less than one (1) year, all costs associated with the initial installation paid by Purchaser shall be refunded by Vendor.
- 29.3. Vendor has no liability for any claim of infringement arising solely from:
- a) Vendor's compliance with any designs, specifications or instructions of Purchaser;
 - b) Modification of the Product or Work Product by Purchaser or a third party without the prior knowledge and approval of Vendor; or
 - c) Use of the Product or Work Product in a way not specified by Vendor;
- unless the claim arose against Vendor's Product or Work Product independently of any of these specified actions.

30. **Save Harmless** *(required)*

Save Harmless – This section protects Purchaser and Vendor from the other party's negligence or omissions, per RCW 4.92.270. Vendor holds Purchaser and Purchaser's employees harmless from claims, suits, or actions arising from Vendor's negligence or omissions while performing its Contractual duties. Standard indemnification language and explanations are provided by the Department of General Administration, Office of Risk Management at their web site <http://www.ofm.wa.gov/rmd/contrman.htm> or call (360) 902-7303.

Vendor shall defend, indemnify, and save Purchaser harmless from and against any claims, including reasonable attorneys' fees resulting from such claims, by third parties for any or all injuries to persons or damage to property of such third parties arising from intentional, willful or negligent acts or omissions of Vendor, its officers, employees, or agents, or Subcontractors, their officers, employees, or agents. Vendor's obligation to defend, indemnify, and save Purchaser harmless shall not be eliminated or reduced by any alleged concurrent Purchaser negligence.

*[At Vendor's insistence, and after Purchaser has evaluated risks and determined that a limited save harmless clause is acceptable, the last sentence may be replaced with the following:
"Vendor shall be required to defend, indemnify, and save Purchaser harmless only to the extent claim is caused in whole or in part by Vendor's negligent acts or omissions."]*

31. **Insurance**

Insurance – Businesses that provide services to the State must carry liability insurance to protect the State's interests. Contractual insurance in a commercial general liability policy provides coverage to protect the State from risks assumed by Vendor, whether oral or written.

Insurance is required only when necessary for the type of purchase being made. Purchaser determines the categories to include and their minimum limits based upon the particular Contract and upon the risk to Purchaser. The amounts specified here are illustrative only. For more specific information on insurance requirements, call the Office of Financial Management, Division of Risk Management, (360) 902-7311 or visit their web site at <http://www.ofm.wa.gov/rmd/forms.htm>

- 31.1. Vendor shall, during the term of this Contract, maintain in full force and effect, the insurance described in this section. Vendor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the state of Washington and having a rating of A-, Class VII or better, in the most recently published edition of *Best's Reports*. In the event of cancellation, non-renewal, revocation or other termination of any insurance coverage required by this Contract, Vendor shall provide written notice of such to Purchaser within one (1) Business Day of Vendor's receipt of such notice. Failure to buy and maintain the required insurance may, at Purchaser's sole option, result in this Contract's termination.
- 31.2. The minimum acceptable limits shall be as indicated below, with no deductible *[or state an acceptable deductible amount]* for each of the following categories:

- a) Commercial General Liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;
 - b) Business Automobile Liability (owned, hired, or non-owned) covering the risks of bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of not less than \$1 million per accident;
 - c) Employers Liability insurance covering the risks of Vendor's employees' bodily injury by accident or disease with limits of not less than \$1 million per accident for bodily injury by accident and \$1 million per employee for bodily injury by disease;
 - d) Umbrella policy providing excess limits over the primary policies in an amount not less than \$3 million;
 - e) Professional Liability Errors and Omissions, with a deductible not to exceed \$25,000, conditioned upon subsection 31.3 below, and coverage of not less than \$1 million per occurrence/\$2 million general aggregate; and
 - f) Crime Coverage with a deductible not to exceed \$1 million, conditioned upon subsection 31.3 below, and coverage of not less than \$5 million single limit per occurrence and \$10 million in the aggregate, which shall at a minimum cover occurrences falling in the following categories: Computer Fraud; Forgery; Money and Securities; and Employee Dishonesty.
- 31.3. For Professional Liability Errors and Omissions coverage and Crime Coverage, Vendor shall: (i) continue such coverage for six (6) years beyond the expiration or termination of this Contract, naming Purchaser as an additional insured and providing Purchaser with certificates of insurance on an annual basis; (ii) within thirty (30) days of execution of this Contract provide for Purchaser's benefit an irrevocable stand-by letter of credit, or other financial assurance acceptable to Purchaser, in the amount of \$1 million, during the initial and any subsequent terms of this Contract, and for six (6) years beyond the expiration or termination of this Contract to pay for any premiums to continue such claims-made policies, or available tails, whichever is appropriate, at Purchaser's sole option, in the event Vendor fails to do so. In addition, such irrevocable stand-by letter of credit shall provide for payment of any deductible on the Professional Liability Errors and Omissions policy and the Crime Coverage under the same terms and conditions of such policy as though there were no deductible. "Irrevocable stand-by letter of credit" as used in this Contract means a written commitment by a federally insured financial institution to pay all or part of a stated amount of money, until the expiration date of the letter, upon presentation by Purchaser (the beneficiary) of a written demand therefor.
- 31.4. Vendor shall pay premiums on all insurance policies. Such insurance policies shall name Purchaser as an additional insured on all general liability, automobile liability, and umbrella policies. Such policies shall also reference this Contract number *[XXX-XXX-XXX]* and shall have a condition that they not be revoked by the insurer until forty-five (45) calendar days after notice of intended revocation thereof shall have been given to Purchaser by the insurer.
- 31.5. All insurance provided by Vendor shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State and shall include a severability of interests (cross-liability) provision.
- 31.6. Vendor shall include all Subcontractors as insured under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each Subcontractor. Subcontractor(s) shall comply fully with all insurance requirements stated

herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Vendor's liability or responsibility.

- 31.7. Vendor shall furnish to Purchaser copies of certificates of all required insurance within thirty (30) calendar days of this Contract's Effective Date, and copies of renewal certificates of all required insurance within thirty (30) days after the renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this section. Failure to provide evidence of coverage may, at Purchaser's sole option, result in this Contract's termination.
- 31.8. By requiring insurance herein, Purchaser does not represent that coverage and limits will be adequate to protect Vendor. Such coverage and limits shall not limit Vendor's liability under the indemnities and reimbursements granted to Purchaser in this Contract.

32. Industrial Insurance Coverage *(required)*

Industrial Insurance Coverage – This section requires Vendor to comply with Title 51 RCW, Washington's industrial insurance law. With few exceptions, Title 51 RCW holds Purchaser responsible for ensuring that Vendor has such coverage.

Agencies can verify a Vendor's compliance with Title 51 RCW by contacting Field Audit Compliance of the Department of Labor and Industries, (360) 902-4769 or (360) 902-4753 in Olympia, or e-mail at verifystatecontracts@lni.wa.gov.

[If Vendor has operations in Washington, include this section. If Vendor has no operations in Washington, do not include this section.]

Prior to performing work under this Contract, Vendor shall provide or purchase industrial insurance coverage for its employees, as may be required of an "employer" as defined in Title 51 RCW, and shall maintain full compliance with Title 51 RCW during the course of this Contract. Purchaser will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for Vendor, or any Subcontractor or employee of Vendor, which might arise under the industrial insurance laws during the performance of duties and services under this Contract.

33. Licensing Standards

Licensing Standards – This section requires Vendor to comply with applicable federal, state, county, or municipal standards for licensing and accreditation to assure quality of service.

Vendor must register with the Washington State Department of Revenue prior to performing work under the Contract. Vendor will be issued a State Uniform Business Identifier (UBI) number to be used in payment of state taxes. Out-of-state vendors performing work in Washington State are required to have UBI numbers.

Vendor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements and standards necessary in the performance of this Contract. (See, for example, chapter 19.02 RCW for state licensing requirements and definitions.)

34. Antitrust Violations

Vendor and Purchaser recognize that, in actual economic practice, overcharges resulting from antitrust violations are usually borne by Purchaser. Therefore, Vendor hereby assigns to Purchaser any and all claims for such overcharges as to goods and Services purchased in connection with this Contract, except as to overcharges not passed on to Purchaser resulting from antitrust violations commencing after the date of the bid, quotation, or other event establishing the Price under this Contract.

35. Compliance with Civil Rights Laws *(required)*

Compliance with Civil Rights Laws – This section requires Vendor not to discriminate against any person for reason of age, sex, race, creed, color, national origin, or disability. Noncompliance or refusal to comply with the nondiscrimination laws, regulations or policies may result in rescission, cancellation or termination of the Contract.

During the performance of this Contract, Vendor shall comply with all federal and applicable state nondiscrimination laws, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. §12101 *et seq.*; the Americans with Disabilities Act (ADA); and Title 49.60 RCW, Washington Law Against Discrimination. In the event of Vendor's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled, or terminated in whole or in part under the **Termination for Default** sections, and Vendor may be declared ineligible for further contracts with Purchaser.

36. Severability *(required)*

Severability – This section provides that if any Contract term or condition is determined to be invalid, the other Contract terms and conditions are not automatically invalid.

If any term or condition of this Contract or the application thereof is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Contract are declared severable.

37. Waiver *(required)*

Waiver of any breach of any term or condition of this Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written instrument signed by the parties.

38. Treatment of Assets

Treatment of Assets – This section provides that title to all property furnished by Purchaser and/or purchased by Vendor as a reimbursable item under the Contract remains with Purchaser. Vendor is responsible for loss of or damage to any such property and shall surrender the property upon Contract completion.

38.1. Title to all property furnished by Purchaser shall remain in Purchaser. Title to all property furnished by Vendor, for which Vendor is entitled to reimbursement, other than rental payments, under this Contract, shall pass to and vest in Purchaser pursuant to the

Ownership/Rights in Data section. As used in this section **Treatment of Assets**, if the “property” is Vendor’s proprietary, copyrighted, patented, or trademarked works, only the applicable license, not title, is passed to and vested in Purchaser.

- 38.2. Any Purchaser property furnished to Vendor shall, unless otherwise provided herein or approved by Purchaser, be used only for the performance of this Contract.
- 38.3. Vendor shall be responsible for any loss of or damage to property of Purchaser that results from Vendor’s negligence or that results from Vendor’s failure to maintain and administer that property in accordance with sound management practices.
- 38.4. Upon loss or destruction of, or damage to any Purchaser property, Vendor shall notify Purchaser thereof and shall take all reasonable steps to protect that property from further damage.
- 38.5. Vendor shall surrender to Purchaser all Purchaser property prior to completion, termination, or cancellation of this Contract.
- 38.6. All reference to Vendor under this section shall also include Vendor’s employees, agents, or Subcontractors.

39. Vendor’s Proprietary Information *(required)*

Vendor’s Proprietary Information – This section sets forth Purchaser’s obligation to protect Vendor’s rights and interests in Vendor’s Proprietary Information to the extent consistent with law. It is Vendor’s responsibility to identify Vendor’s Proprietary Information. Purchaser is obligated to take reasonable steps not to inadvertently or intentionally disclose Vendor’s Proprietary Information; however, Purchaser may be required to disclose such information pursuant to a public records request. Vendor may claim Proprietary rights in various forms of information that it provides to Purchaser in performance of the Contract, such as software, data, technical information, etc., but ultimately a court – not Purchaser and not Vendor – will determine whether Vendor’s Proprietary Information is protected from public disclosure pursuant to chapter 42.17 RCW or other applicable laws.

Vendor acknowledges that Purchaser is subject to chapter 42.17 RCW and that this Contract shall be a public record as defined in chapter 42.17 RCW. Any specific information that is claimed by Vendor to be Proprietary Information must be clearly identified as such by Vendor. To the extent consistent with chapter 42.17 RCW, Purchaser shall maintain the confidentiality of all such information marked Proprietary Information. If a public disclosure request is made to view Vendor’s Proprietary Information, Purchaser will notify Vendor of the request and of the date that such records will be released to the requester unless Vendor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Vendor fails to obtain the court order enjoining disclosure, Purchaser will release the requested information on the date specified.

Disputes and Remedies

40. Disputes *(required)*

Disputes – When a bona fide dispute arises between Purchaser and Vendor, remedy is provided via this dispute process, which will generally precede any court action.

[If this is a simple contract for \$10,000 or less, only the following section need be included.]

In the event a dispute arises under this Contract, it shall be handled by a Dispute Resolution Panel in the following manner. Each party to this Contract shall appoint one member to the Panel. These two appointed members shall jointly appoint an additional member. The Dispute Resolution Panel shall review the facts, Contract terms and applicable statutes and rules and make a determination of the dispute as quickly as reasonably possible. The determination of the Dispute Resolution Panel shall be final and binding on the parties hereto. Purchaser and Vendor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

[If this is a complex contract or is for more than \$10,000, use the following subsections.]

- 40.1. In the event a bona fide dispute concerning a question of fact arises between Purchaser and Vendor and it cannot be resolved between the parties, either party may initiate the dispute resolution procedure provided herein.
- 40.2. The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three (3) Business Days. The initiating party shall have three (3) Business Days to review the response. If after this review a resolution cannot be reached, both parties shall have three (3) Business Days to negotiate in good faith to resolve the dispute.
 - a) If the dispute cannot be resolved after three (3) Business Days, a Dispute Resolution Panel may be requested in writing by either party who shall also identify the first panel member. Within three (3) Business Days of receipt of the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the Dispute Resolution Panel within the next three (3) Business Days.
 - b) The Dispute Resolution Panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.
 - c) Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

[Include the following subsection whenever possible so that arbitration will be binding upon the parties.]

- 40.3. Both parties agree to be bound by the determination of the Dispute Resolution Panel.
- 40.4. Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible. *[If the previous subsection on the decision of the Dispute Resolution Panel being binding is omitted from the Contract, add: “Unless irreparable harm will result, neither party shall commence litigation against the other before the Dispute Resolution Panel has issued its decision on the matter in dispute.”]*

- 40.5. Purchaser and Vendor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.
- 40.6. If the subject of the dispute is the amount due and payable by Purchaser for Services being provided by Vendor, Vendor shall continue providing Services pending resolution of the dispute provided Purchaser pays Vendor the amount Purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Vendor, in good faith, believes is due and payable.

41. Attorneys' Fees and Costs

- 41.1. If any litigation is brought to enforce any term, condition, or section of this Contract, or as a result of this Contract in any way, the prevailing party shall be awarded its reasonable attorneys' fees together with expenses and costs incurred with such litigation, including necessary fees, costs, and expenses for services rendered at both trial and appellate levels, as well as subsequent to judgment in obtaining execution thereof.
- 41.2. In the event that the parties engage in arbitration, mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative dispute resolution method, including cost of mediator or arbitrator. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the alternative dispute resolution method.

42. Non-Exclusive Remedies

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

43. Liquidated Damages

Liquidated Damages – This section establishes the amount of damages upon the breach of certain contractual requirements. If the timeline for the performance of any contractual requirement is critical to Purchaser, then this section may be used. The amount is determined through a good faith effort to estimate damages should a breach occur, when the actual damages amount is not reasonably ascertainable.

[If this section is not used, strike references to it in other sections by searching for the term "Liquidated Damages."]

- 43.1. Liquidated Damages – General
- a) Any delay by Vendor in meeting the *[delivery date]* set forth in this Contract will interfere with the proper implementation of Purchaser's programs and will result in loss and damage to Purchaser.
 - b) As it would be impracticable to fix the actual damage sustained in the event of any such failure(s) to perform, Purchaser and Vendor agree that in the event of any such failure(s) to perform, the amount of damage which will be sustained will be the amount set forth in the following subsections and the parties agree that Vendor shall pay such amounts as liquidated damages and not as a penalty.

- c) Liquidated damages provided under the terms of this Contract are subject to the same limitations as provided in the section titled **Limitation of Liability**.

43.2. Liquidated Damages – Specific

- a) If Vendor does not provide the Services by *[delivery date]* agreed upon between Purchaser and Vendor, then Vendor shall provide a revised *[delivery date]* and pay to Purchaser as fixed and agreed liquidated damages, in lieu of all other damages due to such delay, for each calendar day between the specified *[delivery date]* and the date that Vendor actually provides the Services an amount of *[fixed dollar amount per day or percentage of total cost (purchase price plus applicable tax) of the delinquent Services per day]*.
- b) If the revised *[delivery date]* is more than *[_____] (___)* calendar days from the original *[delivery date]*, then by written notice to Vendor, Purchaser may immediately terminate the right of Vendor to provide the Services and Purchaser may obtain substitute Services from another vendor. In this event, Vendor shall be liable for fixed and agreed-upon liquidated damages, in lieu of all other damages due to such delay, in the amount specified above, until substitute Services are provided, or a maximum of *[_____] (___)* calendar days from the original *[delivery date]*, whichever occurs first.

44. **Failure to Perform**

Failure to Perform – This section establishes that Purchaser may withhold monies after written notification that Vendor has failed to perform any substantial Contract obligation.

If Vendor fails to perform any substantial obligation under this Contract, Purchaser shall give Vendor written notice of such Failure to Perform. If after *[thirty (30)]* calendar days *[or other appropriate time period]* from the date of the written notice Vendor still has not performed, then Purchaser may withhold all monies due and payable to Vendor, without penalty to Purchaser, until such Failure to Perform is cured or otherwise resolved.

45. **Limitation of Liability** *(required)*

- 45.1. The parties agree that neither Vendor nor Purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim related to bodily injury or death, or a claim or demand based on patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this Contract. This section does not modify any sections regarding liquidated damages or any other conditions as are elsewhere agreed to herein between the parties. The damages specified in the sections titled **Termination for Default** and **Review of Vendor's Records** are not consequential, incidental, indirect, or special damages as that term is used in this section.
- 45.2. Neither Vendor nor Purchaser shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either Vendor or Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than Purchaser acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case

the delays must be beyond the reasonable control and without fault or negligence of Vendor, Purchaser, or their respective Subcontractors.

- 45.3. If delays are caused by a Subcontractor without its fault or negligence, Vendor shall not be liable for damages for such delays, unless the Services to be performed were obtainable on comparable terms from other sources in sufficient time to permit Vendor to meet its required performance schedule.
- 45.4. Neither party shall be liable for personal injury to the other party or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

Contract Termination

46. Termination for Default *(required)*

Termination for Default – This section allows termination of the Contract due to documented deficiencies in Vendor's or Purchaser's performance.

- 46.1. If either Purchaser or Vendor violates any material term or condition of this Contract or fails to fulfill in a timely and proper manner its obligations under this Contract, then the aggrieved party shall give the other party written notice of such failure or violation. The responsible party will correct the violation or failure within *[thirty (30) calendar days or other appropriate time period]* or as otherwise mutually agreed in writing. If the failure or violation is not corrected, this Contract may be terminated immediately by written notice from the aggrieved party to the other party. The option to terminate shall be at the sole discretion of the aggrieved party. Purchaser reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit Vendor from incurring additional obligations of funds during investigation of any alleged Vendor compliance breach and pending corrective action by Vendor or a decision by Purchaser to terminate the Contract.
- 46.2. In the event of termination of this Contract by Purchaser, Purchaser shall have the right to procure the Services that are the subject of this Contract on the open market and Vendor shall be liable for all damages, including, but not limited to: (i) the cost difference between the original Contract price for the Services and the replacement costs of such Services acquired from another Vendor; (ii) if applicable, all administrative costs directly related to the replacement of this Contract, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, staff time costs; and, (iii) any other costs to Purchaser resulting from Vendor's breach. Purchaser shall have the right to deduct from any monies due to Vendor, or that thereafter become due, an amount for damages that Vendor will owe Purchaser for Vendor's default.
- 46.3. If the Failure to Perform is without the defaulting party's control, fault, or negligence, the termination shall be deemed to be a **Termination for Convenience**.
- 46.4. This section shall not apply to any failure(s) to perform that results from the willful or negligent acts or omissions of the aggrieved party.

47. Termination for Convenience *(required)*

Termination for Convenience – This section allows the Contract to be terminated when it is in Purchaser's best interest.

When, at the sole discretion of Purchaser, it is in the best interest of the State, Purchaser Contracting Officer may terminate this Contract, including all Statement(s) of Work, in whole or in part, by *[fourteen (14) calendar days or other appropriate time period]* written notice to Vendor. If this Contract is so terminated, Purchaser is liable only for payments required by the terms of this Contract or any SOW for Services received and accepted by Purchaser prior to the effective date of termination.

48. Termination for Withdrawal of Authority

In the event that Purchaser's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, Purchaser may terminate this Contract by *[seven (7) calendar days or other appropriate time period]* written notice to Vendor. No penalty shall accrue to Purchaser in the event this section shall be exercised. This section shall not be construed to permit Purchaser to terminate this Contract in order to acquire similar Services from a third party.

49. Termination for Non-Allocation of Funds

[If no periodic future payments are required under the Contract, this clause may be omitted.]

If funds are not allocated to Purchaser to continue this Contract in any future period, Purchaser may terminate this Contract by *[seven (7) calendar days or other appropriate time period]* written notice to Vendor or work with Vendor to arrive at a mutually acceptable resolution of the situation. Purchaser will not be obligated to pay any further charges for Services including the net remainder of agreed to consecutive periodic payments remaining unpaid beyond the end of the then-current period. Purchaser agrees to notify Vendor in writing of such non-allocation at the earliest possible time. No penalty shall accrue to Purchaser in the event this section shall be exercised. This section shall not be construed to permit Purchaser to terminate this Contract in order to acquire similar Services from a third party.

50. Termination for Conflict of Interest

Termination for Conflict of Interest – This section provides that Purchaser may, by written notice, terminate this Contract if Purchaser finds that any gratuity, bribe, gift, or extra payment in any form has been offered or given by Vendor with the intent to secure the Contract or receive favorable treatment with regard to any aspect of the Contract.

Purchaser may terminate this Contract by written notice to Vendor if Purchaser determines, after due notice and examination, that any party has violated chapter 42.52 RCW, Ethics in Public Service, or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Contract is so terminated, Purchaser shall be entitled to pursue the same remedies against Vendor as it could pursue in the event Vendor breaches this Contract.

51. Termination Procedure

Termination Procedure – This section provides that if Purchaser terminates the Contract, Vendor is required to deliver to Purchaser any property produced to the point of termination as part of the Contract performance. The steps Vendor must follow once a notice of termination is received shall be delineated in Purchaser’s Notice of Termination.

- 51.1. In addition to the procedures set forth below, if Purchaser terminates this Contract, Vendor shall follow any procedures Purchaser specifies in Purchaser’s Notice of Termination.
- 51.2. Upon termination of this Contract, Purchaser, in addition to any other rights provided in this Contract, may require Vendor to deliver to Purchaser any property or Work Product specifically produced or acquired for the performance of such part of this Contract as has been terminated. The section titled **Treatment of Assets** shall apply in such property transfer.
- 51.3. Unless otherwise provided herein, Purchaser shall pay to Vendor the agreed-upon Price, if separately stated, for the Services received by Purchaser, provided that in no event shall Purchaser pay to Vendor an amount greater than Vendor would have been entitled to if this Contract had not been terminated. Failure to agree with such determination shall be a dispute within the meaning of the **Disputes** section of this Contract. Purchaser may withhold from any amounts due Vendor such sum as Purchaser determines to be necessary to protect Purchaser from potential loss or liability.
- 51.4. Vendor shall pay amounts due Purchaser as the result of termination within thirty (30) calendar days of notice of the amounts due. If Vendor fails to make timely payment, Purchaser may charge interest on the amounts due at one percent (1%) per month until paid in full.

52. Covenant Against Contingent Fees

Covenant Against Contingent Fees – This section requires Vendor to warrant that no person or selling agent has been employed or retained to solicit or secure the Contract. A firm cannot hire an individual to use “influence” to obtain a contract.

[Include this section when federal funds are used for the purchase or in other special circumstances.]

- 52.1. Vendor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, *except* bona fide employees or a bona fide established commercial or selling agency of Vendor.
- 52.2. In the event Vendor breaches this section, Purchaser shall have the right to either annul this Contract without liability to Purchaser or, in Purchaser’s discretion, deduct from payments due to Vendor, or otherwise recover from Vendor, the full amount of such commission, percentage, brokerage, or contingent fee.

Contract Execution

53. Authority to Bind

The signatories to this Contract represent that they have the authority to bind their respective organizations to this Contract.

54. Counterparts

Counterparts – This section provides for counterparts or duplicate originals of the Contract. Each party may sign a separate signature page, each of which will be made a part of the Contract and be considered an original.

This Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of this Contract signed by each party, for all purposes.

Signature Blocks – This section provides a statement of understanding of and agreement to the Contract, followed by signature blocks.

[Do not have the signature block appear on a page by itself. Include a portion of the Contract text at the top of the page.]

Only those persons with authority to bind the parties may sign the Contract. It is good business practice to have Vendor sign the document first.

Upon execution, signed copies of the Contract should be provided to all interested parties including, but not limited to, Vendor Contracting Officer, Purchaser [Project or Business] Manager, and Purchaser Contracting Officer. In most instances, Contract performance may begin immediately or may be scheduled for a predetermined date.]

In Witness Whereof, the parties hereto, having read this Contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

[Add Effective Date below.]

This Contract is effective this _____ day of _____, 2____.

Approved
State of Washington
[Purchaser]

Approved
[Vendor]

Signature

Signature

Print or Type Name

Date

Print or Type Name

Date

Title

Title

Each Purchaser that is a state agency is required to have its contract approved as to form by the Attorney General's Office (AGO). Approval as to form by the AGO verifies the contract instrument's legality but does not imply concurrence with or approval of the content.

Approved as to Form

State of Washington
Office of the Attorney General

Signature

Print or Type Name
Assistant Attorney General

Title

Date

Vendor Information

Vendor's UBI Number:

Minority or Woman Owned Business Enterprise

Yes _____ No ☐
(Certification Number)

Schedule A

Authorized Services and Price List

as of *[date]*

for
Contract Number *[XXX-XXX-XXX]*
with
[Vendor]

[Vendor] is authorized to provide **only the Services identified in this Schedule A at the Prices set forth in this Schedule A** under this Contract.

[List information required to be included by the Vendor, e.g., Service categories and descriptions, Prices (hourly rates), and Products (if any), etc.]

Schedule B

Statement of Work Template

The details of the specific Services, project or tasks should be negotiated by Purchaser and Vendor and memorialized in a Statement of Work (SOW). The Contract requires that the SOW reference the Contract number and address the following areas:

Project or Task Objectives

Scope and Description of Work, including Deliverables

Timeline and Period of Performance

Compensation and Payment

Vendor Staff, Roles and Responsibilities

Purchaser Staff, Roles and Responsibilities

Additional Terms and Conditions Specific to this SOW

Signature Block

Statement of Work [YY-YY]
to
Contract Number [XXX-XXX-XXX]
for
[describe acquisition]

This Statement of Work (SOW) is made and entered by and between *[Purchaser]* (“Purchaser”), and *[Vendor]* (“Vendor”), for *[describe acquisition or purpose of SOW]*. This SOW incorporates by reference the terms and conditions of Contract Number *[XXX-XXX-XXX]* in effect between the Purchaser and Vendor. In case of any conflict between this SOW and the Contract, the Contract shall prevail. Purchaser and Vendor agree as follows:

1. Project or Task Objectives

[Describe in detail the project or task objectives.]

2. Scope of Work and Deliverables

Vendor shall provide Services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

[Describe in detail what work Vendor will perform. Identify all tasks, work elements and objectives of the SOW, and timeline for completion of the major elements of the project.]

Vendor shall produce *[describe in detail what deliverables Vendor will produce]*.

3. Timeline and Period of Performance

The period of performance for this project will start on *[start date]* and the work tasks are estimated to continue through *[end date]*. Purchaser has the right to extend or terminate this SOW at its sole discretion.

4. Compensation and Payment

Purchaser shall pay Vendor an amount not to exceed *[_____]* dollars (\$*___*) *[specify maximum dollar amount]* for the performance of all activities necessary for or incidental to the performance of work as set forth in this SOW. Vendor’s compensation for services rendered shall be based on Vendor’s Prices as set forth in the Contract’s Schedule A, *Authorized Services and Price List* as follows:

[List detail of compensation to be paid, e.g., hourly rates, number of hours per task, unit prices, cost per task, cost per deliverable, etc.]

[Expenses are optional. Travel costs are the most common reimbursable expense. If no travel is expected, insert a statement to that effect, e.g. “All activities are expected to take place in the greater (fill in location) area, thus no travel expenses are expected or authorized.” If Purchaser agrees to reimburse travel costs, include the following language.]

Purchaser shall reimburse Vendor for travel and other expenses as identified in this SOW, or as authorized in writing, in advance by Purchaser in accordance with the current rules and regulations set forth in the *Washington State Administrative and Accounting Manual* (<http://www.ofm.wa.gov/policy/poltoc.htm>). No payment of travel expenses will be made to Vendor for routine travel to and from Purchaser’s location. Vendor shall provide a detailed itemization of

expenses, including description, amounts and dates, and receipts for amounts of fifty dollars (\$50) or more when requesting reimbursement. The amount reimbursed to Vendor is included in calculating the “not to exceed” amount specified above.

[If Vendor will be reimbursed for any other expenses, describe them and any cost limits in this section.]

5. Vendor Staff, Roles and Responsibilities

[Identify Vendor staff who will be involved, naming individuals key to the project, and describe in detail their roles and responsibilities.]

6. Purchaser Staff, Roles and Responsibilities

[Identify Purchaser staff who will be involved and describe in detail their roles and responsibilities.]

7. Additional Terms and Conditions Specific to this SOW

[State additional terms and conditions specific to this SOW not found in Contract, if any.]

In Witness Whereof, the parties hereto, having read this SOW *[YY-YY]* to Contract Number *[XXX-XXX-XXX]* in its entirety, do agree thereto in each and every particular.

Approved

[Purchaser]

Signature

Print or Type Name

Title

Date

Approved

[Vendor]

Signature

Print or Type Name

Title

Date

Schedule C

MWBE Certification